

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICHARD AUGUSTINE	§	
v.	§	CIVIL ACTION NO. 6:05cv344
INS	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Richard Augustine, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of a decision by the U.S. Immigration and Naturalization Service. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On October 4, 2005, the Magistrate Judge ordered Augustine to file an amended petition setting out his claims, and the factual bases thereof, with more specificity. A copy of this order was sent to Augustine's last known address, but was returned with the notation that he had been paroled.

On October 24, 2005, the Magistrate Judge issued a Report recommending that Augustine's petition be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge declined to consider whether or not Augustine's parole mooted his petition. A copy of the Report was sent to Augustine's last known address, return receipt requested, but no objections were received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

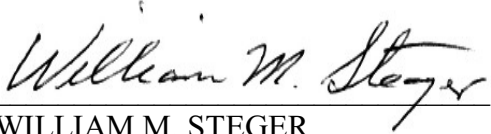
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Magistrate Judge's Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 29th day of November, 2005.


WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE